
EVALUATOR MANUAL TRANSMITTAL SHEET

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Subject:

Foster Family Homes - Blues

Reason For Change:

We are reissuing the entire section of Foster Family Homes.

Sections 87001(c)(5), 87017(d)(1), 87028(f)(1), 87035, 87040(b)(1), 87042(a), 87070(b)(4), 87075(g)(L), 97087(d) were updated.

PLEASE NOTE: The revised sections are shaded.

Filing Instructions:☒ REMOVE – entire section of Foster Family Homes☒ INSERT – the revised package

Approved:Original Copy Signed by
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7-7-00

Date

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**REGULATION INTERPRETATION
AND PROCEDURES
FOR
FOSTER FAMILY HOMES**

FOSTER FAMILY HOMES

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(c)(2) - "Care and Supervision"

POLICY

Homes which provide care and supervision, are required to be licensed. These care and supervision activities include all basic services which must be provided in order to obtain and maintain a license.

PROCEDURE

Refer to Sections 87001(a)(5) and (32), 87005, 87007, and 87068.

87001	DEFINITIONS (Child)	87001
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(c)(5) POLICY

The legislature has passed various statutes to ensure that when a foster child turns 18 he or she is not automatically excluded from foster care facilities. The most compelling reason to permit a child to stay in a foster care facility is to complete their education. If a child 18 years of age or older, continues to be eligible for public assistance benefits and meets certain other criterion, they will be considered to meet the definition of a child as defined in this section. In some instances an exception must be granted for the child to be able to remain in a foster family home as an eligible foster child.

Not all situations where a child turns 18 require an exception to be granted. The following examples outline the situations that require an exception and those that do not.

PROCEDURE

When a licensing worker becomes aware that a child will be turning 18 while still in foster care, they should assess whether or not the child meets the requirements in any of the examples below where an exception may be granted.

87001 DEFINITIONS (Child) (Continued)**87001**

If the child's circumstances fall within the conditions in the first example, the worker should provide proper documentation in the case file that the conditions were met and no exception is required. If the worker determines that they do not meet any of the conditions in the first example but do meet the conditions for the second or third example, the worker should process an age exception. (See Evaluator Manual Section 2-5000, Waivers and Exceptions guidelines).

A. EXAMPLE 1

A foster child with special health care needs, as defined in the Community Care Licensing Division regulations turns 18 and is completing a publicly funded education program. (Authorities: Health and Safety Sections 1530, 1530.5 and 1507.2, W&I Sections 17710 and 17732.1)

No exception is required if all of the following conditions are met:

- a. The child was a resident in the home before the age of 18.
- b. The child is in a publicly funded education program that is expected to be completed before or during the child's 22nd year of age.
- c. There is a needs and services plan completed within six months before the child's 18th birthday.
- d. The needs and services plan includes a determination of the child's continued compatibility with the other children in placement.
- e. There is agreement regarding the child's remaining past the age of 18 years by all parties involved, including *the child*, the foster parent, the social worker, the child's regional center case manager, and the child's parent, legal guardian, or conservator.
- f. The needs and services plan includes an assessment of the child's needs and is updated to reflect any significant change and/or any change in household composition.
- g. The regional center continues to monitor and supervise its placement and to ensure the continued health and safety, appropriate placement, and compatibility of the child.
- h. If the child is in a certified family home, the foster family agency's registered nurse continues to function as the designated health care professional that supervises and monitors the child's ongoing health care.

87001 DEFINITIONS (Child) (Continued)**87001****B. EXAMPLE 2**

A foster child turns 18 and is in high school, technical school or vocational school (Authorities: Health and Safety Code Sections 1530 and 1530.5; CCR Title 22, Division 6, Sections 80024 & 87024) (Reference Authority W & I Code Section 11403)

An exception is required and may be granted if the facility meets all of the following conditions:

- a. The child was a resident in the home before the age of 18.
- b. The child was attending high school, technical school or vocational school on a full time basis prior to his or her 18th birthday.
- c. The child continues to attend high school, technical school or vocational school on a full time basis and the child may reasonably be expected to complete the educational or training program before his or her 19th birthday.
- d. The child and the placement agency have signed a mutual agreement. There is agreement regarding the child's remaining by all parties involved including the licensing agency, the foster parent, the placement worker and the child.

C. EXAMPLE 3

A foster child turns 18 who does not fall under one of the categories described above (Authorities: Health and Safety Code Sections 1530 & 1530.5; CCR title 22 Division 6, Sections 80024 and 87024 (exceptions and waivers))

An exception is required and may be granted if the facility meets all of the following conditions:

- a. The child was a resident in the home before the age of 18.
- b. The needs and services plan includes an assessment of the child's needs, an explanation of the specific need for the child to remain in the home and a specific timeframe by which this need will be addressed. Lack of alternative arrangements is not a sufficient reason for continued placement and indicates that there has not been appropriate transitional or emancipation planning. Completion of schooling, job training or independent living skills programs are factors that should be considered. The needs and services plan is updated with any significant change and whenever there is a change in household composition.

87001 DEFINITIONS (Child) (Continued)**87001**

- c. The needs and services plan includes a determination of the child's continued compatibility with the other children in placement.
- d. There is agreement regarding compatibility and continued stay of the child over the age of 18 years by all parties involved, including the licensing agency, resident, the caretaker(s), the social worker, and the resident's parent, legal guardian, or conservator.
- e. If the child is a regional center placement, there must be a written request from the Regional Center outlining the reason for the request for exception. There must also be an agreement from the Regional Center that they will continue to monitor and supervise the placement to ensure the continued health and safety, the appropriateness of the placement, and the compatibility of the child.

(e)(3) - "Exemption"

POLICY

Section 1522 of the Health and Safety Code requires that Criminal Record Reports be obtained for certain adults and that individuals be denied licensure, employment or residence in a Community Care Facility. Convicted individuals may request an exemption to this law. The term "exemption" applies only to Criminal Record Reports and is not to be confused with "exception".

PROCEDURE

See Reference Material Sections 2-4500 to 4560 and Sections 87001(a)(18), and 87019.

(l)(4) - "Licensing Agency"

PROCEDURE

Refer to the Health and Safety Code in the Appendix.

87001 DEFINITIONS (Continued)**87001**

(n)(2) - "Non-ambulatory Person"

POLICY

Policy regarding total care need and bedridden clients is as follows:

1. A total care need client is one who is totally dependent on others to perform for them all activities of daily living including feeding, dressing, diapering etc. This definition does not apply to infants ages zero to two.
2. A bedridden person is defined in Uniform Building Code Section 403, as "a person confined to a bed, requiring assistance in turning or unable to independently transfer to and from bed, and unable to leave a building unassisted during emergency conditions." This definition does not apply to infants ages zero to two.

Total care need and bedridden clients shall be allowed in community care facilities so long as the client does not require more than incidental medical care or the home meets the requirements for a Foster Family Home caring for children with special health care needs and the following conditions are met:

1. The licensee has obtained the appropriate bedridden or non-ambulatory fire clearance.
2. The licensee has a needs and services plan or Individual Program Plan which specifies the services to be provided to ensure appropriate care for the client's bedridden or total care condition.

(See Policy and Procedures under Section 87010 and 87020.)

(n)(2)(B)

POLICY

For example, a deaf child who could respond to a visual signal may be ambulatory. However, when coupled with other factors such as dependence upon a mechanical aid, the child may be considered nonambulatory.

In summary, a nonambulatory person is defined as one who is unable to leave a building unassisted under emergency conditions. This would include:

1. Any person who is unable, or likely to be unable, to physically respond or mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger, and

87001 DEFINITIONS (Continued)**87001**

(n)(2)(B)

POLICY (Continued)

2. Any person who depends upon a mechanical aid, such as crutches, walkers, and wheelchairs.

In all cases, infants (as defined in Section 87001(a)(24)) are considered nonambulatory. Notwithstanding this policy, foster family homes providing care and supervision for infants and/or ambulatory children do not require a fire clearance.

PROCEDURE

See Sections 87010 and 87020.

(s)(1) "Serious Deficiency"

PROCEDURE

See Section 87051 for examples which commonly result in serious deficiencies.

(w)(1) "Waiver"

PROCEDURE

See Section 87024 and Reference Material Section 2-5000.

ARTICLE 2 LICENSE**87006 OPERATION WITHOUT A LICENSE****87006****(b) POLICY**

If information is received regarding the operation of an unlicensed home, it shall be treated and given priority as a complaint. (Reference Material Section 3-3000.)

A site visit shall be conducted to determine if care and supervision is being provided and, therefore, if the home needs to be licensed.

If the evaluator cannot gain entry into the home in order to conduct this site visit, District Offices should contact the Regional Investigations Section and county licensing agencies should contact the local District Attorney if: (1) reasonable attempts have been made to gain access, and (2) there is a basis to support the belief that care and supervision are being provided (e.g., interviews with neighbors support belief). (Reference Material Section 1-1100.) County licensing agencies shall contact their program consultants.

During the site visit the evaluator shall make an assessment as to whether or not the children appear to need care and supervision in order to determine if referrals to other agencies and/or individuals are necessary.

This assessment should be based on certain “indicators” that care is needed, including:

1. The ambulatory status of the children (e.g., bedridden);
2. The involvement of any placement agency which is delegated the responsibility to monitor the provision of services (i.e., regional centers, etc.);
3. The presence of any life-support equipment or other necessary assistive devices;
4. Any physical or mental conditions of the individuals which indicate the need for care; and
5. Any activities defined in Section 87001(a)(7).

(b) PROCEDURE

If care and supervision is not being provided and it does not appear that any is needed, notify the operator (by use of the LIC 809) and the complainant(s), if applicable (by use of the Complainant Response--LIC 856). A copy of these notices shall be placed in Community Care Licensing Division files.

If care and supervision is not being provided to children who need it, notify the same individuals specified above plus any known responsible parties, including relatives, guardians or placement agencies, as applicable.

87006 OPERATION WITHOUT A LICENSE (Continued)**87006****(b) PROCEDURE (Continued)**

When notifying responsible persons or agencies, mail notices no later than one working day after the site visit has been conducted.

If there are any immediate health safety risks (e.g., abuse, neglect, or exploitation, serious physical plant deficiencies, etc.) telephone the appropriate county Child Protective Services Unit so that immediate action to investigate and take necessary protective action, including necessary relocation of clients, can be initiated. Follow up such notifications in writing.

Discuss with your supervisor the need to refer any cases. The District Offices refer to the Regional Investigation Section and county agencies refer to the local District Attorney.

(c) POLICY

The Notice of Operation in Violation of Law (LIC 195) shall be issued when a facility is discovered operating without a license.

The LIC 195 shall be issued omitting the last paragraph, when a facility is discovered operating under the following circumstances:

1. When an application has been filed, but a license has not yet been approved.
2. When an initial application for a new license has been denied (regardless of whether or not such denial is appealed by the applicant).

(c) PROCEDURE

When the licensing agency has been previously informed that a facility is operating without a license, take LIC 195 signed by the District Office Manager or county licensing supervisor, to the site visit. If it is determined during the visit that the facility is providing care and supervision and is, in fact, operating unlicensed, issue the LIC 195. If the licensing agency has not been previously informed, the notice shall be mailed (certified mail return requested) or hand-delivered to the operators by not later than the following workday. If you are not returning to your office the day of the visit, call your office and make arrangements for the notice to be mailed within the specified time frame.

If the licensee has taken no immediate action and an application has not been filed, make a follow-up visit within 30 days of the initial visit. The purpose of this visit is to determine whether the facility is continuing to provide care and supervision. If such is the case, consult with your supervisor to consider referral. The District Offices refer to the Regional Investigation Section, counties to the local District Attorney for appropriate enforcement action.

87007 EXEMPTION FROM LICENSURE**87007****(a)(5) POLICY**

Based on Health and Safety Code, Section 1505(g) and CCR 87007(a)(5), facilities exempted from licensure shall be limited to those facilities or any portions thereof which substitute prayer for medical nursing services which would otherwise be provided for or required by clients in a health facility.

If a facility or any portion thereof accepts clients who are only in need of nonmedical care and the facility provides such services, the facility is not exempt from community care facilities licensure.

(a)(10) POLICY

In December 1990, the State Court of Appeals issued a ruling in the Norman V. McMahon court case. As a result of this decision, a former step-parent may be eligible for State Aid to Families with Dependent Children Foster Care benefits but only if he or she is a guardian or a licensed foster parent.

To allow former step-parents to obtain State Aid to Families with Dependent Children - Foster Care benefits, relatives who are former step-parents shall be permitted to apply for a foster family home license.

(a)(13) POLICY

Prospective adoptive parents are exempt from licensure as a foster family home if they meet the above criteria. However, an exempt facility does not qualify as an eligible facility for Aid to Families with Dependent Children - Foster Care Program funding purposes. Therefore, if prospective parents wish to be licensed as a foster family home, they may be licensed if they meet all of the licensing requirements.

PROCEDURE

- A. For relinquishment adoptions, the licensing agency can verify that a home meets the above exemption requirements by:
1. Obtaining the name of the caseworker in the licensed adoption agency from the prospective adoptive parents.
 2. Contacting that individual in the adoption agency to obtain a copy of one of the following documents:
 - a. Relinquishment Form (AD 585)
 - b. Termination of rights by court action (court record)
 - c. Acknowledgement and confirmation of receipt of relinquishment documents (AD 4333).

87007 EXEMPTION FROM LICENSURE (Continued)**87007****PROCEDURE (Continued)**

3. Confirming with the caseworker that the child referenced on the document obtained is the child in placement with this prospective adoptive parent.
- B. For intercountry adoptions, the licensing agency can verify that a home meets the above exemption requirements by:
1. Obtaining the name of the caseworker in the licensed Adoption Agency from the prospective adoptive parents.
 2. Contacting that individual in the Adoption Agency to obtain a copy of one of the following documents:
 - a. Visa for the child with an official stamp from Immigration and Naturalization Service.
 - b. Adoption decree from the foreign country and a form from Immigration and Naturalization Service (such as the Visa or green card) proving that the child is in the country legally.
 - c. Petition to Classify Orphan as Immediate Relative (Immigration and Naturalization Service Form 1-600).
 - d. Application for Advance Processing of Orphan Petition (Immigration and Naturalization Service Form 1-600A).
 3. Confirming with the caseworker that the child referenced on the document obtained is the child in placement with the prospective adoptive parent.
-

(a)(14)

POLICY

See Policy under Section 87007(a)(13).

PROCEDURE

For independent adoptions, the licensing agency can verify that a home meets the above exemption requirements by:

1. Obtaining the name of the caseworker in the licensed adoption agency from the prospective adoptive parent(s).
2. Contacting that individual in the adoption agency to obtain a copy of one of the following documents:
 - a. The Health Facility Minor Release Report (AD 22)
 - b. Petition to adopt

87007 EXEMPTION FROM LICENSURE (Continued)**87007****PROCEDURE (Continued)**

NOTE: If the prospective parent has a copy of one of these documents, it is unnecessary to contact the adoption agency.

3. Confirming with the caseworker that the child referenced on the document obtained is the child in placement with this prospective adoptive parent.

(a)(15)

POLICY

Facilities located on federal government property, including military bases are exempt from licensure because State laws do not apply on most federal lands. This exemption also applies to facilities located on Indian reservations.

Children may still be placed in an unlicensed facility located on federal property or an Indian reservation, because the facility is considered exempt from licensure. However, an exempt facility located on federal property does not qualify as an eligible facility for Aid to Families with Dependent Children - Foster Care program funding purposes. An otherwise Aid to Families with Dependent Children - Foster Care eligible child must be residing in a licensed, certified or approved home as described in the Evaluator Manual of Policies and Procedures Section 45-203.4 to receive State or Federal Aid to Families with Dependent Children - Foster Care payments. There is no provision to allow placement in exempt facilities.

Otherwise eligible Indian children who are placed in group or family homes located on Indian reservations are eligible to receive State/Federal Aid to Families with Dependent Children - Foster Care program funding when the homes are approved by the tribal council per MPP Section 45-101.1(b)(3). However, homes located on Indian reservations must be licensed if any non-Indian children in placement are to qualify for Aid to Families with Dependent Children - Foster Care funding.

PROCEDURE

When facilities located on federal government properties or Indian reservations require and/or request licensure, an application for a license may be processed if the personnel in charge of the operations on the land, i.e., military base commander, director, etc., or, in the case of Indian reservations, the Indian Tribal Council, agrees to cooperate with all licensing procedures. This agreement must be obtained on the standard form LIC 996 or LIC 996A as appropriate.

In addition to this agreement a written agreement from the applicant may be obtained. This agreement must be obtained on the standard applicant agreement form LIC 997 or LIC 997A as appropriate.

87007 EXEMPTION FROM LICENSURE (Continued)**87007****(a)(15) PROCEDURE (Continued)**

Depending on the licensing agency, the District Office Manager or the County Welfare Director or his/her designee should sign all agreements.

Upon completion of an agreement with an Indian Tribal Council, the Bureau of Indian Affairs should be notified. A copy of the agreement should be sent to:

U.S. Department of Interior,
Sacramento Area
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825
Attention: Area Director

Another option for the county licensing agency is to become a homefinding agency in order to certify facilities located on federal property and Indian reservations as exclusive use homes.

The Indian Tribal Council must agree, in writing, to allow the homefinding agency access onto the property for the purpose of certification. For federal government property this written agreement is not required.

If the county chooses this option any facilities located on these properties that are currently licensed can continue to be licensed until such time as the county licensing agency becomes a homefinding agency.

87007.1 CERTIFIED LICENSE PENDING HOMES**87007.1****(a)(5) POLICY**

“Certified License Pending Homes” are strictly for the county’s use while the application process is being completed and the certification is specific for a particular child. A Foster Family Agency shall not use a county “Certified License Pending Home” for its own use.

(b) PROCEDURE

Licensing evaluators **never** certify homes for emergency placements.

87010 LIMITATIONS ON CAPACITY AND AMBULATORY STATUS**87010****(a) POLICY**

Policy regarding total care need and bedridden children is as follows:

1. A total care need child is one who is totally dependent on others to perform for them all activities of daily living including feeding, dressing, diapering etc. This definition does not apply to infants ages zero to two.
2. A bedridden person is defined in Uniform Building Code Section 403, as “a person confined to a bed, requiring assistance in turning or unable to independently transfer to and from bed, and unable to leave a building unassisted during emergency conditions.” This definition does not apply to infants ages zero to two.

Total care need and bedridden children shall be allowed in the community care facilities so long as the child does not require more than incidental medical care or the home meets the requirements for a foster family home caring for children with special health care needs and the following conditions are met:

1. The licensee has obtained the appropriate bedridden or non-ambulatory fire clearance.
2. The licensee has a needs and services plan or the Individual Program Plan which specifies the services to be provided to ensure appropriate care for the child’s bedridden or total care condition.

(See Policy and Procedures under Sections 87001 and 87020).

(c)(1) POLICY

Ambulatory children who become nonambulatory shall be accommodated in bedrooms cleared by the State Fire Marshal.

PROCEDURE

Verify ambulatory status of clients through medical assessments; visual observation and physical condition of client.

(c)(2) POLICY

Health and Safety Code Section 13131 defines nonambulatory and requires the Director of California Department of Social Services or representatives to determine ambulatory status.

87010 LIMITATIONS ON CAPACITY AND AMBULATORY STATUS
(Continued)**87010**

(c)(2)

POLICY (Continued)

Although Section 87069 requires medical assessments to include ambulatory status, the licensing agency should not rely solely on that determination, as physicians frequently do not understand the definition of nonambulatory which is used in the community care facilities.

In order to be considered **ambulatory**, a child must meet all of the following criteria.

1. The child is not dependent upon a mechanical aid such as a walker, crutches or wheelchair, and he/she is able to ambulate a reasonable distance in a brief period of time.
2. The child is able to respond both physically and mentally to an audible or visual signal or an oral instruction and evacuate the building unassisted, in an emergency situation.
3. The child is able to utilize all escape routes identified in the facility's fire/safety evacuation plan. This includes doors, stairs and fire escapes.

If a child fails to meet any of the above criteria, he/she shall be considered nonambulatory.

Infants, as defined in Section 87001(i)(3) are considered nonambulatory. (See Section 87020.)

PROCEDURE

In order to determine the ambulatory status of a child, the licensing agency shall take as many of the following actions as necessary.

1. Ask the licensee for the names of all nonambulatory children.
 2. Review medical assessments.
 3. Review the needs and services plan.
 4. Interview the child.
 5. Observe the child. (See below)
 6. Contact placement agencies or other persons or agencies responsible for the child.
 7. Contact the child's physicians.
-

**87010 LIMITATIONS ON CAPACITY AND AMBULATORY
STATUS (Continued)****87010**

(c)(2)

PROCEDURE (Continued)

For those children determined to be nonambulatory, the licensing agency shall inspect for a nonambulatory room.

The licensing agency should always be alert to notice the presence of devices such as crutches, walkers or wheelchairs and should determine which children use these devices.

In situations where the licensing agency questions the ability of a child to ambulate, the licensing agency may request the child to demonstrate his/her ability to walk. The licensing agency should observe and evaluate the ability of the child to exit the facility unassisted in a reasonable period of time.

Prior to determining that a child with developmental disabilities is nonambulatory, the evaluator shall consult with representatives of the California Department of Developmental Services and consider their input (Health and Safety Code Section 13131).

When children are determined to be nonambulatory and there is no appropriate fire clearance, the following steps shall be taken:

1. A Plan of Correction shall be developed which requires the licensee to make arrangements for the child to be relocated within a safe but reasonable time, or for the licensee to request, through the licensing agency, an appropriate fire clearance.
 2. Unless the child is to be relocated immediately, the local fire district and the agency or person responsible shall be notified of the situation in writing.
 3. If the licensing agency believes that allowing the child to remain in the facility pending correction will present an immediate threat to safety, the licensing agency, in consultation with the local fire district, shall take any other administrative action when it is necessary (revocation and Temporary Suspension Order).
-

ARTICLE 3 APPLICATION PROCEDURES**87017 APPLICANT QUALIFICATIONS****87017**

(c)

POLICY

The Americans with Disabilities Act, which was signed into law on July 26, 1990, gives civil rights protections to individuals with disabilities that are like those provided to individuals on the basis of race, sex, national origin and religion. It guarantees equal opportunity for individuals with disabilities in employment, public accommodations, transportation, State and local government services, and telecommunications.

Under the Americans with Disabilities Act, an individual is considered “disabled” if he/she has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment (meaning other people treat the individual as if he/she is disabled whether or not that is actually the case). The Americans with Disabilities Act also prohibits discrimination against an individual who is “associated” with an individual with a disability.

The term “public accommodations” includes child day care facilities and other facilities that provide nonresidential care; it may also include facilities that provide care continuously for only a few days, which would be analogous to hotels that provide short-term lodging and are subject to the Americans with Disabilities Act. With respect to Residential Care Facilities that provide social services (e.g., foster family homes), there is apparent overlap between the Federal Fair Housing Amendments Act of 1988 and the Americans with Disabilities Act: The residential aspect appears to be covered by the Fair Housing Act, while the social services aspect appears to be covered by the Americans with Disabilities Act.

The Community Care Licensing Division is not responsible for enforcing the provisions of the Americans with Disabilities Act.

PROCEDURE

Because the Community Care Licensing Division is not responsible for enforcing the Americans with Disabilities Act, Licensing Program Analysts should not give advice to licensees about their responsibilities under the Americans with Disabilities Act. Licensees should, however, be encouraged to contact the Community Care Licensing Division under the following circumstances:

1. If licensees believe that our regulations are an impediment to fulfilling their obligations under the Americans with Disabilities Act.
2. If licensees are asked to make a “reasonable accommodation” under the Americans with Disabilities Act or the Fair Housing Act. (This will give the Community Care Licensing Division the opportunity to provide input before the parties negotiate a settlement that might not be considered appropriate by the Community Care Licensing Division or the State Fire Marshal. Involving the Community Care Licensing Division early in the process will enable the Community Care Licensing Division to effectively raise such issues as the intent of the regulations.)

87017 APPLICANT QUALIFICATIONS (Continued)

87017

(c) PROCEDURE (Continued)

In addition, the designated Associate Governmental Program Analyst in each Region will serve as the clearinghouse for residential care issues related to the Americans with Disabilities Act. The District Offices can still raise questions with the Central Operations Branch, but the District Offices should in all cases make the designated Associate Governmental Program Analyst in their Region aware of Americans with Disabilities Act issues. The expectation is that the designated Associate Governmental Program Analysts will identify regional and/or statewide issues that may be presented to the Central Operations Branch in issue-memo format. The Central Operations Branch will assume responsibility for requesting legal opinions as necessary.

Individuals who wish to file a complaint under the Americans with Disabilities Act, or who wish to obtain further information, should be advised to contact the following agencies:

- The first step would be to contact the local office of the State Department of Fair Employment and Housing. The Department of Fair Employment and Housing has a wealth of information and will coordinate with federal agencies as appropriate.
- For additional information, individuals should contact:

U.S. Department of Justice
Civil Rights Division
Office on the Americans with Disabilities Act
P.O. Box 66118
Washington, D.C. 20035-6118
(202) 514-0301 or (202) 514-0383 TT/TDD
(202) 514-6193 Electronic Bulletin Board

- Because the Fair Housing Act and the Americans with Disabilities Act have apparent overlap, individuals may also wish to contact:

U.S. Department of
Housing and Urban Development (HUD)
Region IX--San Francisco
Phillip Burton Federal Bldg. and U.S. Courthouse
450 Golden Gate Ave.
P.O. Box 36003
San Francisco, CA 94102-3448
(415) 556-4752

Or call HUD's toll-free complaint hotline:
1-800-669-9777; TDD 1-800-927-9275

87017 APPLICANT QUALIFICATIONS (Continued)**87017**

(c)(1)

PROCEDURE

The licensing agency shall provide applicants with information on foster care liability insurance provisions at time of orientation. The information shall consist of an oral summary of the November 3, 1986, letter on this subject, which was sent to all existing licensed foster family homes and small family homes (See Appendix).

The licensing agency shall maintain a supply of the November 3, 1986, letter specified above for distribution to each applicant at time of orientation. In addition, the licensing agency shall summarize the information contained in this letter during orientation.

(c)(2)

POLICY

Flexibility shall be exercised in determining appropriateness of courses taken.

PROCEDURE

File original or copy of document(s) in the facility file at the licensing office.

(d)(1)

POLICY

The licensee shall complete training as prescribed in Health & Safety Code Section 1529.1-2

HEALTH AND SAFETY CODE SECTION 1529.1-1529.2

1529.1 It is the intent of the Legislature that persons desiring to become, or to continue being, foster parents shall receive training in order to assist them in being effective substitute caregivers and to enhance the safety and growth of children placed with them. There is a need to develop a basic curriculum, a program for continuing education, and specialized training for parents caring for children with unique needs.

1529.2 (a) In addition to the foster parent training provided pursuant to Section 903.7 of the Welfare and Institutions Code, FFAs shall supplement the community college training by providing a program of training for their certified foster families.

(b) (1) Every licensed foster parent shall complete a minimum of 12 hours of foster parent training, as prescribed in paragraph (3), before the placement of any foster children with the foster parent. In addition, a foster parent shall complete a minimum of eight hours of foster parent training annually as prescribed in paragraph (4). No child shall be placed in a foster family home unless these requirements are met by the persons in the home who are serving as the foster parents.

HEALTH AND SAFETY CODE SECTION 1529.1 – 1529.2 (Continued)

(2) (A) Upon the request of the foster parent for a hardship waiver from the postplacement training requirement or a request for an extension of the deadline, the county may, at its option, on a case-by-case basis, waive the postplacement training requirement or extend any established deadline for a period not to exceed one year, if the postplacement training requirement presents a severe and unavoidable obstacle to continuing as a foster parent. Obstacles for which a county may grant a hardship waiver or extension are:

- (i) Lack of access to training due to the cost or travel required.
- (ii) Family emergency.

(B) Before a waiver or extension may be granted, the foster parent should explore the opportunity of receiving training by video or written materials.

(3) The initial preplacement training shall include, but not be limited to, training courses that cover all of the following:

- A. An overview of the child protective system.
- B. The effects of child abuse and neglect on child development.
- C. Positive discipline and the importance of self-esteem.
- D. Health issues in foster care.
- E. Accessing education and health services available to foster children.

(4) The postplacement annual training shall include, but not be limited to, training courses that cover all of the following:

- A. Age-appropriate child development.
- B. Health issues in foster care.
- C. Positive discipline and the importance of self-esteem.
- D. Emancipation and independent living skills if a foster parent is caring for youth.

(5) Foster parent training may be attained through a variety of sources, including community colleges, counties, hospitals, foster parent associations, the California State Foster Parent Association's Conference, adult schools, and certified foster parent instructors.

87017 APPLICANT QUALIFICATIONS (Continued)**87017**

- (6) A candidate for placement of foster children shall submit a certificate of training to document completion of the training requirements. The certificate shall be submitted with the initial consideration for placements and provided at the time of the annual visit by the licensing agency thereafter.

(c)

Nothing in this section shall preclude a county from requiring county-provided preplacement or postplacement foster parent training in excess of the requirements in this section.

FOSTER PARENT MOVES FROM ONE COUNTY TO ANOTHER**POLICY**

1. When a foster parent(s) moves from one county to another and maintains their status as foster parent(s) by reapplying timely (within 30 days) for a foster family license in the new county, they shall not be required to repeat the initial 12 hours of pre-placement training.
2. The same interpretation and rationale would apply to the statutory requirement for eight hours of annual post-placement training. If a foster parent moves from one county to another and maintains their status as foster parent(s) by reapplying timely (within 30 days) for a foster family license in the new county, they do not have to repeat the post-placement training they have completed.

If they have completed the eight hours in the county from which they have moved, the receiving state/county licensing office shall give them credit for their hours for the coming 12 months. Since they are filing a new application, a new one year time period shall be established for the post placement training requirement. For example, if a foster parent had completed eight hours training in county A in January 1998 and moved to county B in June 1998, county B would accept their eight hours for the year beginning June 1998 and would advise them that their next eight hours would have to be completed between June 1999 and June 2000.

3. If a foster parent(s) moves from one county to another and does not maintain their status as foster parent(s) by reapplying timely (within 30 days) for a foster family license in the new county, the State/county licensing office at their discretion may require them to repeat their pre-placement and post-placement training. If one year has elapsed from the time they moved and last held a foster family home license, they must repeat their pre-placement and post-placement training.

87018 APPLICATION FOR LICENSE**87018****(a) POLICY**

Persons inquiring about licensure shall be instructed to attend orientation meetings (See Reference Material Sections 3-1100-1160). Attendance is a prerequisite to licensure. Document attendance at completion of orientation sessions.

To initiate the application process, all forms in Section A of the LIC 120E must be properly completed and submitted as a total package to the licensing agency. Incomplete application packages (Section A) shall be returned. All documents in Section B must be submitted within 90 days of application acceptance or the application is subject to closure.

PROCEDURE

When all required documents in Section A are received, review to assure that they are properly completed. If additional information or clarification is needed, contact the applicant by telephone or send an Incomplete Application Letter (LIC 184). Record all telephone calls on the Contact Sheet (LIC 185) or similar approved form which is maintained in the facility file. If a document must be returned to an applicant, keep a copy with a notation that the original was returned to the applicant for correction. If all material is complete, return the facility file to the clerk pending receipt of supportive documents in Section B. Policy and procedures for reviewing application documents can be found in Section 87018(c).

(c)(5) POLICY

Health and Safety Code Section 1536 establishes restrictions for the release of identifying information on foster family homes.

PROCEDURE

See Reference Material Section 2-6200.

(c)(7) POLICY

The applicant shall disclose on the Applicant Information (LIC 215) any:

1. Past or present beneficial ownership of 10 percent or more in any community care or health care facility; or any past or present service as an administrator, director, general partner, or corporate officer of any community care or health care facility.
 - a. “Beneficial ownership” is any type or form of ownership. This includes, but is not limited to, persons who are members of nonprofit corporations, stockholders, trustees, trustors, partnerships, etc.

87018 APPLICATION FOR LICENSE (Continued)**87018**

(c)(7)

POLICY (Continued)

2. Revocation or other disciplinary action taken or being taken against a license held or previously held by the entities described in Health and Safety Code Section 1520(d).
 - a. “Other Disciplinary Action” includes pending or sustained denial actions, Temporary Suspension Orders, pending revocations, injunctions, and misdemeanor actions (Health and Safety Code, Section 1540). This information is gathered for character reference purposes only and shall not be considered a reason to cease application review (Health and Safety Code, Section 1520.3).
3. Health and Safety Code Section 1520.3 states if an applicant indicates or the licensing agency determines that the applicant previously was issued a health or community care license which was revoked within the preceding two years, the licensing agency shall cease any further review of the application until two years have elapsed from the date of such revocation. Such cessation shall not constitute a denial of the application for purposes of the Health and Safety Code, Section 1526 or any other provision of law (Health and Safety Code Section 1520.3).
4. If it is verified that a license has been revoked within the past two years, the licensing agency will return the application with the standard form letter (See Appendix).

PROCEDURE

The list of administrative actions is provided upon request by the Community Care Licensing Division’s Regional Offices as a monitoring tool and consists of all completed administrative actions which resulted in a finding of revocation. The report also provides a master list of sustained denial actions and completed Temporary Suspension Orders. Licensing agencies are advised that revocation actions which are adopted by the Department after the date of a quarterly report may exist. For further clarification on the disposition of a particular case, licensing agencies may contact the Office of Legal Affairs. Counties contact their state-licensing consultant.

(c)(13)

POLICY

No person shall be denied an foster family home license solely because he or she is a recipient of food stamps, AFDC, SSI/SSP, or some other welfare benefit.

87018 APPLICATION FOR LICENSE (Continued)**87018**

(c)(13)

PROCEDURE

It is the responsibility of the licensing agency to consider welfare payments and benefits as any other income in determining whether total income is sufficient for the needs of the foster parent's own children and other dependents. Net income from foster care payments may not be considered.

The requirements for an foster family home license are met if an applicant's income in cash and kind, including any income from welfare payments and/or benefits is sufficient to meet the living standard of the foster family home family. Conversely, if such combined income and resources are insufficient for the family, the foster family home license shall be denied.

(d)

POLICY

A husband and wife, unmarried couple or other adults living in the same location may elect to sign a joint application for a family type license. However, if only one of the foregoing persons wishes to sign an application, the other party in the home is not compelled to sign such application. The foster family home license can only be issued to person(s) living in the home who sign the application. Liability, (i.e., for accidents and injuries sustained by children, employees, or others in the course of the licensing operation) exists for both spouses of a married couple even if only one name is shown on the license.

Amendments to the application document can be made only by the applicant who must initial the changes.

87020 FIRE CLEARANCE**87020**

(a)

POLICY

"Maintained" means that the fire clearance is to be retained in the facility's file.

Uniform Building Code Section 403 defines bedridden person as "a person confined to a bed, requiring assistance in turning or unable to independently transfer to and from bed, and unable to leave a building unassisted during emergency conditions."

All homes which care for Mentally Disordered or Developmentally Disabled children shall secure a fire clearance. In addition, foster family homes which provide care and supervision for nonambulatory or bedridden children over the age of two (See Section **87020(a)(1)**), shall secure a non-ambulatory or bedridden fire clearance respectively.

In all cases, infants are to be considered nonambulatory. Notwithstanding this policy, foster family homes providing care and supervision for infants and/or ambulatory children do not require a fire clearance. A clearance is required if a foster family home accepts nonambulatory children over the age of two.

NOTE: When deaf persons (even though considered ambulatory) are being served in a facility, it should be specified on the request for a fire clearance in order to ensure the home has an appropriate alarm system (e.g., a flashing lights) as required by statute.

87020 FIRE CLEARANCE (Continued)

87020

(a) POLICY (Continued)

In order to obtain an appropriate fire clearance, the Evaluator shall provide clerical staff with sufficient information regarding age, capacity, ambulatory status and physical/mental condition of children.

Requests for clearances for homes which care for children with emotional or behavioral problems shall indicate that the request is for **“structured environment for children.”** Requests for homes which care for bedridden children shall state **“bedridden fire clearance”**.

If the fire clearance is denied for a deficiency that appears to be correctable, contact the applicant. If the applicant's decision is to correct, record the Plan of Correction date on the Contact Sheet (LIC 185) and return the folder to the file. If the deficiency is not correctable or the applicant determines the correction would be too costly, begin the denial or withdrawal process, as appropriate.

If a fire clearance denial is received on a licensed facility, the licensing agency shall initiate the appropriate administrative action. (See Reference Material Sections 1-2000--2100.)

Licensees found caring for bedridden clients without the appropriate clearance should be cited under Section 87020. The licensee shall be informed that the violation is serious and shall be directed to submit a request for the appropriate bedridden fire clearance or to submit a relocation plan for the removal of the child. The Licensing Program Analyst should take into account the facility's history of performance when reviewing the time frames for the relocation of the client to determine the likelihood that compliance will be timely. In all cases the licensee shall be required to immediately notify the child's placement worker or authorized representative that the facility does not have an appropriate fire clearance.

If the licensee requests a bedridden fire clearance, the Licensing Program Analyst shall immediately call the appropriate fire authority and request an expedited clearance explaining the reasons for the request. A written request stating “bedridden fire clearance” should follow.

If after the inspection, the fire authority denies the fire clearance, the licensee shall be required to submit a relocation plan. In cases where the fire authority has approved a temporary clearance pending physical plant alterations a relocation plan shall not be required.

Under no circumstances shall a license be issued without an appropriate fire clearance, (if required) and under no circumstances shall the requirement for a fire clearance be waived.

87021 WATER SUPPLY CLEARANCE**87021****(a)(2) POLICY**

Sanitation clearance inspections are requested only as required by this regulation or if sanitation conditions exist which could adversely affect the children's health and safety. For example, if a home is located in an area where chemical contamination is a concern, an analysis may be requested based on Section 1501(b)(5) of the Health and Safety Code.

PROCEDURE

Discuss the need for a sanitation inspection with your supervisor as this requires payment of a fee by the applicant/licensee. Coordinate inspections with the local sanitation department.

87022 PLAN OF OPERATION**87022****(d) PROCEDURE**

Upon receipt of the plan of operation, review regulations to ensure that each part of the plan is in compliance. For example, to determine if an applicant's admission is adequate, review Section 87068, Admission Agreements.

87023 DISASTER AND MASS CASUALTY PLAN**87023****(b)(1)(E) POLICY**

It is recommended that the plan also include utility shut off locations and the location of first aid supplies.

NOTE: The Emergency Care and Disaster Action Plan (LIC 610) meets this regulation.

PROCEDURE

Review the home plan to ensure that it is complete, accurate and updated as necessary to reflect any changes in the home or community.

87023 DISASTER AND MASS CASUALTY PLAN (Continued)**87023****(d)(1) POLICY**

Disaster drills should ensure that children know exit routes. It is recommended that a diagram of the home clearly indicating exit routes be posted.

In conducting disaster drills, exiting the building according to plans is necessary but relocation of children would only occur in an actual disaster.

87024 WAIVERS AND EXCEPTIONS**87024****(b)(1) POLICY**

The Indian Child Welfare Act of 1978 (P.L. 95-608) requires that the Indian child be placed in a facility/home that:

1. Represents the least restrictive setting.
2. Most nearly approximates a family setting.
3. Meets the special needs of a child, if any exists.

Maximum program flexibility through waivers and exceptions should be utilized to achieve licensure of a range of Indian facilities which substantially comply with licensing standards and do not present life threatening health and safety risks. (Refer to Reference Material Section 2-5000).

(b)(2) POLICY

A **waiver** may be granted when an applicant/licensee requests a variance to a specific regulation that relates to the overall operation of the facility.

An **exception** may be granted when an applicant/licensee requests a variance to a specific regulation on behalf of an individual(s) (e.g., a client or employee).

An **approval** shall describe the alternate plan and specify the condition(s) under which the request is granted, including its duration. The duration of Waivers/ Exceptions shall be for the term of the license or for a shorter period at the request of the applicant/licensee or as deemed necessary by the licensing office manager to ensure adequate and safe provision of service.

The basis for denial shall be fully explained.

(b)(4) PROCEDURE

See Reference Material Section 2-5000.

87025 BONDING**87025****(b) POLICY**

A surety company is defined as a company that has contracted to be responsible for another, especially a company which assumes any responsibilities, debts, or obligations in the event of the default of another.

In order to be allowed to do business in the State of California, the surety company must obtain from the State Department of Insurance, Office of the Commission, an organization permit and a certificate of authority.

The bond shall cover any loss of children's monies which have been entrusted to the home. This shall also include reimbursement for unused prepaid care. This is commonly called a "fidelity" bond or "employee dishonesty coverage" bond.

Time certificates or other interest accumulating certificates issued by a bank are not bonds.

No form of financial guarantee or instrument, other than a surety bond, is acceptable.

PROCEDURE

If there is a question of the validity of a particular surety company, require the licensee to present documentation of the Organization Permit and Certificate of Authority from their surety company.

(f) POLICY

The Individual Account Funds (LIC 405), and Client Personal Property and Valuables (LIC 621), are available to licensees to maintain required records.

PROCEDURE

Review the Affidavit Regarding Clients' Money (LIC 400) to determine if the home does or does not handle cash resources as defined in Section 87025(f) under policy. If children's money will be handled, assure that a current Surety Bond (LIC 402) is on file, in an appropriate amount as required in Section 87025(c), and is properly signed and sealed by the surety company.

87027 APPLICATION REVIEW**87027****(b) PROCEDURE**

See Sections 87018 and 87029.

(c) PROCEDURE

Refer to Sections 87018(c), 87029 and 87034(b).

87028 CAPACITY DETERMINATION**87028****(f)(1) POLICY**

For licensing capacity purposes, guardianship children and adopted children are treated as natural children. That is, if a home cares both for nonguardianship foster children adopted and guardianship children, the licensed capacity of the home reflects the number of nonguardianship children that the licensee can care for. However, the presence of guardianship adopted and natural children in the home may reduce the licensed capacity if the guardianship adopted and natural children impair the ability of the licensee(s) to provide care to the nonguardianship foster children.

The decision to reduce licensed capacity (from the requested or maximum number allowed) is based on the care needs of other household members. These needs are reflected by their mental and physical level of functioning, relative to other persons of the same age, and their dependence on the licensee for care and supervision.

Licensing agencies shall enforce appropriate physical plant regulations to ensure adequate accommodations exist for all people who will reside in the home. If adequate accommodations exist for all household members and no household member has special or unusual care needs, they have no impact on the capacity determination.

If other members of the household have unusual or special needs, then a capacity reduction should be considered. As a general rule, the capacity should be reduced by one for every household member whose special needs require care in an amount similar to that required by other community care clients with similar needs. However, the licensing agency is not required to reduce a licensee's capacity to less than one unless the health and safety of foster children are jeopardized.

87028 CAPACITY DETERMINATION (Continued)**87028****(f)(1) POLICY (Continued)**

When the licensee can no longer accommodate additional placements and does not wish to voluntarily relinquish the license, the licensing agency shall allow a licensee to retain the foster family home license under the following conditions:

1. The licensee has a history of satisfactory compliance with licensing requirements and
2. The facility's capacity is absorbed with the licensee's birth, adopted, or guardianship children.

See Evaluator Manual Regulations Sections 8710 and 87010.1.

See Evaluator Manual Regulations Sections Interpretations and Procedures Sections 87010.

(f)(1) PROCEDURE

Obtain information about the other household members, children and adults, who reside at the home. This information shall be broken down by:

1. Age, relationship to licensee.
2. Physical and mental level of functioning, if these individuals have special needs.
3. Based on "2" above, a brief description of any special or unusual care needs.

For existing licensees, this information shall be obtained or updated at the annual visit. For applicants, this information shall be obtained at the time of application.

All decisions to reduce licensed capacity for existing licensees shall be approved by the District Office Manager, or county equivalent, and shall be properly documented and supported in the facility's files. This decision should also be shared with any placement agencies involved.

The licensee (or applicant) shall be informed in writing of the reasons why a reduced capacity was determined necessary. For existing licensees, a reasonable time period shall be provided if relocation of children is necessary.

If the health and safety of foster children are jeopardized and an applicant or licensee does not voluntarily reduce the license capacity, deny the application or revoke the license. If the licensee appeals the revocation and the licensee's failure to reduce the capacity is significant enough to jeopardize the children's health and safety, the licensing agency shall request a Temporary Suspension Order.

When a licensing agency allows an at-capacity licensee to retain the foster family license, provide to the licensee a LIC 809 that specifies the following:

1. The licensee shall not accept additional placements before contacting the licensing agency and verifying that there is adequate capacity to accept additional placements.
2. The licensee shall acknowledge our continuing inspection authority.
3. The licensee shall maintain compliance with licensing regulations.

87028 CAPACITY DETERMINATION (Continued)**87028****(f)(1) PROCEDURE (Continued)**

Following is language that a licensing agency may use on a LIC 809 for a licensee who has reached capacity and does not wish to voluntarily relinquish the license:

Our foster family home has a licensed capacity of ____ foster child(ren).

(I/We) accepted placement of ____ foster child(ren) and have now adopted/accepted legal guardianship of the child(ren).

(I/We) agree the adopted/guardian child(ren) fill the capacity of this foster home.

(I/We) agree that we cannot accept any new placements until we verify to the licensing agency that I/We can accommodate additional placements.

(I/We) shall maintain compliance with foster family home regulations as specified in Title 22, Division 6, Chapter 7.5, of the California Code of Regulations and shall cooperate with the inspection authority of the licensing agency.

The licensing agency shall share this information within ten calendar days with the local county California Department of Social Services Director, the probation officer, and any other agencies or individuals that have placements in this foster family home.

See Evaluator Manual Regulation Interpretations and Procedures Sections 87035 and 87042.

87029 WITHDRAWAL OF APPLICATION**87029****(a)(1) POLICY**

The applicant has the right to withdraw an application any time prior to the issuance of a license. The withdrawal of an application shall not be considered a denial. However, the withdrawal of an application shall not deprive the Department of its authority to institute or continue a proceeding to deny an application, unless the Department has consented to the withdrawal in writing. If the licensing agency gives consent to a withdrawal, administrative action cannot be taken. Therefore, written consent should not be given in situations where application denial is intended or pending. Additionally, the withdrawal of an application is not appropriate in situations where the application has already been acted upon (denied or approved).

87029 WITHDRAWAL OF APPLICATION (Continued)**87029****PROCEDURE**

If the licensing agency is notified that an applicant is no longer interested in obtaining a license and wishes to withdraw his/her application, confirm in writing the applicant's intent to withdraw the application and give consent to the withdrawal, unless the licensing agency is in the process of denying the application. If the licensing agency is in the process of denying the application, continue the denial procedure and do not consent to the withdrawal of the application.

1. If a denial action is pending, send the following notification:

"We acknowledge receipt of your request to withdraw your community care license application. This acknowledgment is not a consent to the withdrawal of your license application and does not deprive the Department of its authority to take action to deny your application."

2. If denial action is not pending, send the following:

"We have received your request to withdraw your community care license application and do hereby consent to the withdrawal. If you wish to obtain a community care license in the future, you must reapply for a license."

Document in the facility file the reason for consenting or not consenting to the withdrawal.

87030 PROVISIONAL LICENSE**87030****(f) POLICY**

Issuing a provisional license is a discretionary option available to the licensing agency during urgency conditions when denying the application for initial license would be inappropriate. Thus, provisional licenses are not issued "upon request" of the applicant. Nor is there an application process for issuance of provisional licenses, or an appeal procedure if an applicant requests a provisional license and is not given one. The applicant does have appeal recourse to the denial of the application for the initial licensure.

A provisional license may be issued provided all necessary clearances are received and the health and safety of children are not jeopardized.

Provisional licenses are not for the purpose of "expediting" the licensing process and are not to be used as "probationary licenses". An applicant must comply with the criminal record and fire clearance (if needed) requirements in order to meet the substantial compliance criteria. To the extent that waiting for these clearances "hold up" the licensing approval process, a provisional license cannot be issued to remedy this situation.

87030 PROVISIONAL LICENSE (Continued)**87030****PROCEDURE**

When an application for a provisional license is approved, a cover letter shall be prepared describing the conditions of the provisional license and stating deficiencies to be corrected before a regular license can be granted. The cover letter should conclude with the statement that unless all conditions are fulfilled, a regular license will not be granted. Supervisory review of the provisional license and cover letter is required before being mailed.

If, during the term of a provisional license, health and safety risks arise:

1. Issue a Denial-Initial Application (LIC 192) and establish in that letter the date the home must cease operations (taking into consideration any child relocation which may be necessary).
2. After the effective date in the (LIC 192), if the home continues operations, issue a Notice of Operation in Violation of Law (LIC 195).

Before the termination of a provisional license, the licensing agency shall:

1. Conduct a review to determine whether all licensing requirements are met and
2. Deny or approve the application for a license.

Provisional licenses cannot be renewed nor extended.

87031 ISSUANCE OF LICENSE**87031****(b) POLICY**

The Licensing Report (LIC 809) must not be used to authorize operation of a foster family home.

87035 CONDITIONS FOR FORFEITURE OF A FOSTER FAMILY HOME LICENSE**87035****POLICY**

A licensee may retain a license even if he/she has voluntarily chosen to discontinue operating the facility. In such cases, the licensee is not relieved of the responsibility to comply with applicable regulations.

In keeping with this policy, the Community Care Licensing Division is prohibited from requiring a licensee to relinquish the facility license because the facility is not operating; however, the licensee may choose the option of voluntarily surrendering the license. If the facility is in substantial compliance and no administrative action is being considered, the evaluator should encourage this option. Acceptance of a surrendered license shall be approved only by the District Office Manager and/or County equivalent or designee. Explain to the licensee that a surrendered license is equivalent, under the law, to forfeiture of license.

87035 CONDITIONS FOR FORFEITURE OF A FOSTER FAMILY HOME LICENSE (Continued) 87035**POLICY (Continued)**

The local licensing office shall acknowledge, in writing, receipt of the surrendered license, or receipt of a statement of intent to surrender the license. Under no circumstances shall the surrendered license deprive the Department of its authority to institute or continue administrative actions against the licensee.

Surrender of a license results in a legal “forfeiture”. Therefore do not use the term “surrender” in written correspondence. Use the language in the following procedures.

See Evaluator Manual Regulation Interpretations and Procedures Sections 87028 and 87042.

PROCEDURE

1. If there is no pending or planned administrative action and the licensee of a foster family home surrenders his/her license to the local licensing office stating any of the following:
 - He/she will no longer operate;
 - The facility is going out of business;
 - The licensee is moving;
 - The licensee has moved.

- a. Send the following to the licensee at the last known address:

“Effective (date), your license is forfeited by operation of law pursuant to Health and Safety Code Section 1524. Your license is no longer valid and all provision of care and supervision must cease. If you have not already done so, please send your license to the above address. You are responsible for notifying all children or their authorized representatives that you have surrendered your license and will facilitate the relocation of the children. If you wish to again operate an foster family home, you must not start operation until a new license is issued.”

The effective date should be the date of notification, unless a later closure date has been agreed upon.

87035 CONDITIONS FOR FORFEITURE OF A FOSTER FAMILY HOME LICENSE (Continued)**87035****PROCEDURE (Continued)**

- b. Close the facility file.
2. When the licensee of a foster family home surrenders his/her license to the local licensing office stating that he/she will no longer operate and there is evidence which may support an administrative action, or an administrative action has been initiated.
 - a. Acknowledge receipt of the license as follows:

“We acknowledge receipt of your license and/or your statement that you no longer wish to be licensed for a foster family home. This acknowledgement does not deprive the Department of its authority to institute or continue an administrative action against your license. If the administrative action results in the revocation of your license, your application for a new license will not be processed until two years have elapsed from the date of the revocation (refer to Health and Safety Code Section 1520.3).”
 - b. The District Offices are to notify legal staff; county licensing agencies are to notify their administrative action consultant to discuss the appropriateness of pursuing/continuing the administrative action.
 - c. The licensee must be notified in writing of the effective date of the forfeiture of license.
 - d. Document in the case file the reason for acknowledging the receipt of the license and/or the licensee’s statement that they are surrendering their license.
3. When the licensee of an foster family home surrenders the license in order to avoid having to comply with licensing regulations, but continues to operate, i.e., provide care and supervision:
 - a. Acknowledge receipt of the license as follows:

“We acknowledge receipt of your license and your statement that you no longer wish to be licensed as an foster family home. Since you continue to operate an foster family home, you are required by law to be licensed. You are, therefore, operating a licensed facility and must comply with the rules and regulations related to such operation.”
 - b. Until the facility ceases operation, continue to visit and cite the facility, document any deficiencies on the LIC 809, and monitor all corrective actions. If the license expires and the facility continues to operate, the guidelines in Section 87006(b) and (c) on “Operation Without A License” are to be followed.
4. When the licensing agency discovers that the licensee has moved, but licensing has not been notified of the move, and there is no pending administrative action, refer to Procedure 1 above.

ARTICLE 4 ADMINISTRATIVE ACTIONS**87040 DENIAL OF INITIAL LICENSE****87040****(b)(1) POLICY**

NOTE: The following is a list of some common conditions that may necessitate the denial of the application:

1. Failure to meet regulations for securing fire (if applicable), health, and safety clearances.
2. A history of criminal conviction with insufficient evidence of rehabilitation. (See Section 87019(f).)
3. The proposed home does not meet the requirements.
4. The applicant fails to follow through with the application process.

When it is determined that an application will be denied, applicants shall not be given the option to withdraw the application prior to the denial action. In this circumstance, licensing agencies shall not consent to a request to withdraw an application. If the licensing agency accepts a withdrawal of the application in writing, the licensing agency cannot proceed with any administrative action on the case. The Decision and Order resulting from an administrative hearing serves to officially document and record the denial. The Health and Safety Code 1520(e) provides that the applicant must disclose previous disciplinary actions taken against him/her. The Health and Safety Code Section 1520.3 provides for certain Community Care Licensing Division actions based on past revocations if the individual applies again for a license. It is important, therefore, to record the denial actions for future reference. This process does not apply when an applicant withdraws his/her application and the licensing agency, at the time of the withdrawal action, has no grounds for a license denial action. (See Section 87029.)

(b)(1) PROCEDURE

Review all applications which appear headed for denial with your supervisor. All denial actions must be fully documented and substantiated. The importance of this cannot be overemphasized. The Evaluator Manual outlines the documentation requirements for denials.

Upon compiling the necessary documentation and consultation, an LIC 192 (Notification of Initial Application Denial) form signed by the District Office Manager or county equivalent will advise the applicant in writing that the application is denied and inform him/her of the specific regulations which were not met. The licensing agency shall send all LIC 192 forms by certified mail. All licensing agencies shall send a copy of the denial letter to the Community Care Licensing Division Regional Office. The denial letter further informs the applicant that the denial can be appealed in writing within 15 days.

87040 DENIAL OF INITIAL LICENSE (Continued)**87040****(b)(1) PROCEDURE (Continued)**

In the event the applicant appeals the denial, the Regional Office Manager will acknowledge receipt of the letter and advise the applicant that an administrative hearing will be scheduled. A copy of the acknowledgement letter is sent to the District Office or the county. Steps will be initiated by the Regional Office for scheduling an administrative hearing to review the denial action. During this hearing, the evaluator may be required to testify. The documentation previously gathered will be used to show why the denial action was justified. If the applicant does not file an appeal, the denial is completed and no further action is needed other than verifying the facility is not in operation.

A sample LIC 192 form (Notification of Initial Application Denial) is available in the Community Care Licensing Division Common Library.

87042 REVOCATION OR SUSPENSION OF LICENSE**87042****(a) POLICY**

No licensing agency shall initiate a hold on placements in foster family homes either unilaterally or at the request of a placing agency. Placing a hold on placements at a facility by the Department is equivalent to an issuance of a Temporary Suspension Order as the Department is effectively causing a facility to cease operation. The decision regarding the placement of children in a foster family home is a decision that must be made by the placement agency.

Licensing agencies shall not revoke a foster care license solely because the facility's capacity has been absorbed with the licensee's birth, adopted or guardianship children.

Licensing agencies shall not request a Temporary Suspension Order unless the licensee's failure to reduce the capacity is significant enough to jeopardize the children's health and safety.

See Evaluator Manual Regulation Interpretations and Procedures Sections 87028 and 87035.

87044 INSPECTION AUTHORITY OF THE DEPARTMENT OF LICENSING AGENCY**87044****(c) POLICY**

The licensing agency shall continue to determine compliance with regulations by foster family home licensees, identify deficiencies, develop written, corrective action plans with the licensees, and conduct follow-up visits as necessary to evaluate completion of corrective action plans. Documentation of all licensing visits, citations, plans of correction, etc., shall be made on the LIC 809.

**87044 INSPECTION AUTHORITY OF THE DEPARTMENT OF
LICENSING AGENCY (Continued)****87044****PROCEDURE**

The following procedure shall be utilized as appropriate.

1. Schedule licensing visits by telephone no more than five nor less than two days in advance of the visit.
 2. If it is necessary to cancel or reschedule an appointment, the licensee should be notified as soon as possible to minimize any inconvenience. Document the date and reason for any visit cancelled by the licensing worker or licensee in the facility file. The District Offices shall record such information on the Contact Sheet (LIC 185).
 3. If the licensee fails to keep a scheduled appointment, the licensing worker should **not** leave a LIC 809 at the facility. The licensee's failure to keep the appointment should be noted in the facility file.
 4. When a successful licensing visit is made, the previous visit attempt should be summarized in the opening statement of the LIC 809 used for that visit.
 5. Three failures to keep appointments and/or lack of cooperation by foster family home licensees in the scheduling or completing of announced or unannounced licensing visits should be brought to the attention of the California Department of Social Services Program Consultant (for counties) or the Branch Office (for the District Offices). Administrative action may be considered under such circumstances.
 6. Complaint visits shall be conducted on an unannounced basis as currently required.
-

ARTICLE 5 ENFORCEMENT PROVISIONS**87051 SERIOUS DEFICIENCIES (RESERVED)****87051****PROCEDURE**

Use Form LIC 809 or approved form when citing deficiencies and acquiring a Plan of Correction.

87052 DEFICIENCIES IN COMPLIANCE**87052****(a) POLICY**

Deficiencies are noncompliances with either licensing laws or regulations. A serious deficiency is defined in Section 87051 as “a deficiency that presents an immediate or substantial threat to the physical health, mental health, or safety of the clients of a community care facilities.” Section 87051 lists examples of key regulations that may result in a serious deficiency citation. That list is not inclusive, nor does it lack compliance with any of those regulations automatically result in a serious deficiency citation. However, noncompliance with any of those regulations listed will generally indicate the existence of a threat to the health and safety of the foster children commensurate to a serious deficiency and should be so cited.

Further, lack of compliance with Section 87019, relating to criminal record clearance, and Section 87020, relating to fire clearance, will always be cited as a serious deficiency. These are two requirements that are essential to ensuring the provision of adequate and safe care to foster children.

PROCEDURE

When you identify a deficiency, you must write the deficiency on the Licensing Report (LIC 809), with the exception that if a deficiency has not previously been cited and is corrected during the visit, you may use your discretion in determining whether a nonserious deficiency should be documented on the LIC 809. Very minor infractions such as dusty night stands or a burned out light bulb, should be handled verbally by telling the licensee to correct it. **All** serious deficiencies shall, however, be included on the LIC 809 indicating whether or not correction was made at the time of the visit. It is recommended that you note such infractions on the Detail Supportive Information (LIC 812) for reference.

87052 DEFICIENCIES IN COMPLIANCE**87052****(b) POLICY**

A licensee who fails to sign a LIC 809 shall be cited under this section.

(b) PROCEDURE

During the exit interview, discuss the following:

1. Deficiencies which were observed and cited on the LIC 809.
2. The plan for correcting any deficiencies, including due dates, and, if necessary, interim steps for completing each part of the plan. (See Section 87052.)

If a facility has deficiencies which could pose an immediate threat to foster child health and safety (i.e., a jagged, broken window is observed in an area of the home which is frequently used by children), remain on the premises until any dangerous conditions can be remedied.

The LIC 809 is used for documenting site visits and office visits. The LIC 809 is signed by the evaluator and the licensee and is carbonized. When completing the form, the top sheet (original) is retained by the licensing agency, the first copy is given to the home, and the bottom copy is mailed by the licensing agency to the county welfare department in which the home is located to be available for public review.

(c)(3) POLICY

It is expected that the writing of the LIC 809 be completed in the field at the conclusion of the evaluation visit. Exceptions to this could be, for example, a lengthy and complex inspection that extends beyond your normal working hours, or uncertainty whether a violation should be cited as a **deficiency** or **serious** deficiency and you need to consult with your supervisor.

(c)(3) PROCEDURE

If the evaluator is unable to complete the Licensing Report (LIC 809), he/she must leave LIC 809 signed by the licensee that states date and purpose of the visit and clearly documents that:

1. Deficiencies were discussed during the exit interview.
 2. An appointment will be made to review the report and determine a Plan of Correction. An attempt should be made to schedule the appointment not more than two working days past the date of the home visit.
-

87052 DEFICIENCIES IN COMPLIANCE (Continued)**87052**

(d)(4)(C)

PROCEDURE

There will be occasions when, because of the deficiency cited, the licensee will be unable to immediately provide a Plan of Correction. For example, your tour of home reveals that the roof is leaking throughout the facility. The licensee states he/she cannot provide a Plan of Correction before talking to a contractor. For example, as an interim Plan of Correction, you may require that the facility secure a contractor and specify a reasonable completion date within ten days.

Point out to the facility that the more specific the Plan of Correction is, the easier it is to (1) jointly identify a reasonable correction date; and (2) the less chance there is for any misunderstanding when you return to determine if the deficiency is corrected.

87053 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE**87053**

(a)

POLICY

Follow-up visits are announced.

The licensing agency may be permitted to accept documentation mailed in by the licensee to satisfy the Plan of Correction, in lieu of a follow-up home visit.

PROCEDURE

See procedure under Section 87044.

ARTICLE 6 CONTINUING REQUIREMENTS**87064 LICENSEE DUTIES AND RESPONSIBILITIES****87064****(a)(1) POLICY**

If the licensee wishes to bring someone into the home to watch the children (pre-school) during the day, that person must be a responsible adult who is fingerprint cleared and has had a TB test.

For those instances when children return home from school, prior to the licensee returning home from work, the following alternative care situations may be used:

1. If the public or private school the foster child attends has “extended day care”, they may utilize this program.
2. Licensed child care centers or licensed family day care homes can be utilized.
3. The foster child can be left alone in the foster home if an exception has been requested and granted from the licensing agency.
4. A babysitter 18 years of age or older (not a foster child) can be hired to watch the foster children. If a babysitter under 18 years of age is used, the licensee must get an exception from the licensing agency.

(a)(2) POLICY

A foster child may not be left without adult supervision unless the licensee and placement agency/authorized representative requests and obtains approval for an exception from the licensing agency. The exception must stipulate the days/time the child is allowed to be in the foster home without adult supervision.

There are no licensing restrictions as to the allowable length of the licensee’s absence; whether the foster children may go to someone else’s home or if the adult temporary care provider must provide care and supervision in the licensed foster home. The responsibility is placed on the licensee to make appropriate arrangements which best fit their needs and the needs of the foster children.

87064 LICENSEE DUTIES AND RESPONSIBILITIES (Continued)**87064****(a)(2) POLICY (Continued)**

The licensee must make sure that prior to, or at the time they need a temporary care provider to care for the foster children in their absence, the temporary care provider must be fingerprinted and sign the Criminal Record Statement (LIC 508). The licensee must submit the fingerprints to licensing within four calendar days following employment, residence or initial presence of the temporary care provider in the home (or the foster children going to the home of the temporary care provider).

The temporary care provider must also have a TB test performed not more than one year prior to or seven days after initial presence in the home.

PROCEDURE

If the initial temporary care will be for 20 days or more, or if the initial care is less than 20 days and subsequent temporary care after the 20-day limit will be necessary, the licensee must submit the fingerprints to the licensing agency within four days of the initial presence of the temporary care provider in the home.

See [Regulation Sections](#) 87019(b) and (b)(1).

(b)(6)(A) PROCEDURE

Verify that the hospital's discharge planning program, developed for the care of the ventilator-dependent child, is dated and signed by either the hospital's discharge planner or the child's attending physician. Review verification annually.

If the licensee is in the process of receiving the training but has not completed the discharge plan, document on the LIC 809. Verify that training and discharge plan have been completed within 30 days of the completion date.

If the hospital's discharge plan requires ongoing training, verify that the licensee is currently participating.

(c)(1) POLICY

The licensee may be absent from the home, when children are at home, with no adult supervision only with prior written approval from the licensing agency.

(c)(1) PROCEDURE

An exception (for each child residing in the home and who will be left unattended without adult supervision) shall be requested. Each exception shall be reviewed and renewed or denied at renewal time or when deemed necessary by the licensing agency. (See Section 87024 and Reference Material Section 2-5000.)

87065 PERSONNEL REQUIREMENTS**87065****(e) POLICY**

Homes of a particular religion which are subject to licensure **may** be granted a waiver for Sections 87065(d) and (e), 87069(a) and (b), 87070(b)(7) - (10) and (12), and Section 87075(a)(e), and (g) through (k), under the following conditions:

1. The licensee and any other adult members living in the home are adherents of the particular religion.
2. All foster children admitted to the home are adherents of the particular religion.
3. Household help shall be informed in writing by the licensee that there are individuals in the home who have not been medically cleared against TB or other infectious diseases.

Homes which do not meet the above conditions for a waiver may be granted individual exceptions to the above sections for any adult regularly in the home, household help or foster children, who are adherents of a well-recognized church relying solely upon prayer or spiritual means of healing. The homes must present satisfactory evidence to the licensing agency that individuals needing an exception are free from any communicable disease. Such evidence shall be a written statement from a physician or person under his/her supervision.

87068 ADMISSION AGREEMENTS**87068****(b)(3)(A) POLICY**

The basic rate charge for clients who are SSI/SSP recipients shall not exceed the government prescribed rate.

PROCEDURE

Refer to Appendix Tab C SSI/SSP Payment Standards

(f) POLICY

Modification to the admission agreement on yearly rate changes is not necessary. A copy of the rate change notification from a placement agency or authorized person is adequate. Such notification must be attached to the original admission agreement and kept in the child's file at the home.

87069 CHILDREN'S MEDICAL ASSESSMENTS**87069****(b)(6) POLICY**

See Section 87065(e), Policy.

87070 CHILDREN'S RECORDS**87070****(b)(4) POLICY**

Effective January 1, 1993, Health and Safety Code Section 1567.3 requires that prior to the out-of-country placement of a child adjudged to be a ward of the court, pursuant to Welfare & Institutions Code Section 602, the county probation officer or California Youth Authority parole officer from the ward's county of residence must notify, in writing, the county probation officer receiving the placement.

PROCEDURE

1. For the purpose of this policy, the county of residence means the county where the child is from, also referred to as the "sending" county.
 2. For the purpose of this policy, the county receiving the placement means the county where the facility is located, also referred to as the "placement" county.
 3. When an out-of-county child adjudged a ward of the court, as defined in Welfare & Institutions Code Section 602, is placed in a community care facilities, the licensee shall ask the ward's county of residence probation officer or parole officer if he or she provided the county of placement written notice of placement.
 4. At the time of placement, the licensee must obtain the following information from the county probation officer or parole officer, to be documented in the client's record:
 - a. If the ward's county of residence probation officer or parole officer sent written notice of placement to the local probation officer.
 - b. If the probation or parole officer's response is "yes", the licensee shall document the name and telephone number of the ward's county of residence probation officer or parole officer and the name and telephone number of the local probation officer.
 - c. If the probation or parole officer's response is "no", the licensee shall document the response and the name and telephone number of the ward's placing probation officer or parole officer.
-

87072 PERSONAL RIGHTS**87072****(a)(10)(C) POLICY**

House rules can be established regarding visitation hours, sign in rules, visiting room, etc., but must apply to all visitors.

(a)(15)(B) POLICY

The number of calls permitted the child should not be limited unless the licensee has documentation to verify excessive use by that child.

(a)(15)(C) POLICY

Licensees shall provide a telephone, on the premises, for client use.

Pay telephones meet Subsection (15) if they are accessible. In order for pay telephones to be considered accessible, the facility must provide clients with appropriate change to make local calls. This means the licensee is required to pay for local calls.

PROCEDURE

See Section 80073, General Requirements.

87073 TELEPHONES**87073****PROCEDURE**

See Section 87072(a)(15).

87075 HEALTH RELATED SERVICES**87075****(g)****POLICY**

Any person on the license is required to have current training in first aid and Cardiopulmonary Resuscitation. However, licensees who are licensed Health Care professionals as defined in Section 87001 (h)(1) do not need to complete the first aid training.

PROCEDURE

Request from licensee verification of a current certificate or card as proof of first aid and Cardiopulmonary Resuscitation training.

Cardiopulmonary Resuscitation requirement: At the next scheduled evaluation/renewal visit, a Plan of Correction should be developed which includes the date by which the licensee will complete the Cardiopulmonary Resuscitation training. Depending on the availability of the Cardiopulmonary Resuscitation training classes, it may be appropriate to also establish an interim Plan of Correction, i.e., the date by which the licensee will register for a Cardiopulmonary Resuscitation class. The final correction date should not exceed six months from the date of the facility visit and the initial Plan of Correction.

(L)**POLICY**

The Centrally Stored Medication and Destruction Record (LIC 622) is available for this purpose.

PROCEDURE

Refer to Section 87065(e), Policy for homes and/or children exempt from this section due to religious affiliation or belief.

87076 FOOD SERVICES

87076

PROCEDURE

(a)(1)

If it is questionable whether a home meets this requirement, document on the LIC 809 what food is available and discuss with your supervisor the need for consultation from a nutritionist.

If there are documented sanitation problems, discuss with your supervisor the need for consultation from a local sanitarium. See Sections 87087 and 87088.

(a)(3)

POLICY

Children may purchase snacks from a store or vending machine by using their own money (allowances, savings, etc.). However, this does not relieve the foster parents from the responsibility to make nutritious snacks available.

(a)(6)

PROCEDURE

To ensure that the foster parent is providing for children who have medically prescribed diets, compare the food supplies with the physician's or dietitian's prescribed diet plan.

(a)(7)

PROCEDURE

Check canned goods to ensure that they are free from swollen ends, broken rims or seams, seam dents, or rust spots.

(a)(10)

POLICY

The official stamp of approval shall suffice as written evidence. The official **State** stamp is a "C" and a three (3) digit number (i.e., C 123). The **federal** stamp is USDA.

(a)(11)

POLICY

Regulation Section (a)(11) refers to perishable foods. These are foods which spoil readily without refrigeration, drying, or some other method of food preservation. Examples include, but are not limited to milk and other dairy products, meat, fish, poultry, eggs, fresh fruits and vegetables, bread and other baked products, all prepared items; leftovers, such as frozen foods which have been allowed to thaw and canned foods which have been opened.

87076 FOOD SERVICES (Continued)**87076**

(a)(11)

PROCEDURE

If it is suspected that the temperature of a refrigerator exceeds 45 degrees F (i.e., items in refrigerator are not cold to touch, cheese or butter softened, food packed too tightly, etc.) use a holding thermometer to check the temperature. In some cases, the licensee may already maintain a thermometer inside the refrigerator.

(a)(14)

PROCEDURE

Check the following:

1. Cleanliness of refrigerators and freezers. Frost accumulation is one sign that a refrigerator has been inadequately cleaned.
 2. Cleanliness of floors and walls.
 3. Cleanliness of cabinets and counters.
 4. Cleanliness of appliances (large and small).
 5. Dry storage area. Check for cracks and crevices which would allow for rodent entry and for damaged screens or windows which could allow insects to enter. Look under items stored on the floor and behind food on shelves for evidence of infestation. Check for rodent and insect infestation by opening all of the resealed containers and storage bins. Food should not be stored directly on the floor.
 6. Look for contamination by small bugs, worms or weevils and for rat and mice droppings, rub marks, runways, gnawings and tracks. Rub marks and runways are caused by established rodent pathways to feeding or nesting areas. Tracks can be seen on dusty surfaces.
 7. Although sanitation clearance inspections are not routinely requested, if there is serious question such matters as proper food preparation and storage, sanitizing of dishes, insect control or general sanitation, discuss with your supervisor the need for such an inspection. (See Sections 87087 and 87088, Policy.)
-

(a)(16)

PROCEDURE

Check glasses and dishes to ensure that they are not chipped or cracked.

Check the vent fan for the stove to ensure that it works.

If you detect any gas smell when the stove and oven is not in use, this may indicate poor maintenance and is a definite safety hazard.

87076 FOOD SERVICES (Continued)**87076**

(a)(17)(A)

POLICY

Low energy dishwashers not reaching 165 degrees Fahrenheit are acceptable if they automatically dispense a sanitizing agent.

PROCEDURE

At the beginning of an evaluation visit, place a holding thermometer in the automatic dishwasher. When the full cycle has completed, check the thermometer to assure that the temperature meets this requirement.

(a)(18)

PROCEDURE

See Subsection 16 above.

(b)(1)

POLICY

Licensing agencies shall document specific food service deficiencies prior to requiring homes to provide written information as to food purchases.

PROCEDURE

When a deficiency in food service is identified, document findings on the Licensing Report (LIC 809) and as necessary, on the Detail Supportive Information (LIC 812).

ARTICLE 7 PHYSICAL ENVIRONMENT

87087 BUILDING AND GROUNDS

87087

(a)(1)

POLICY

Two (2) to a room is the expected standard in order to provide children in placement some degree of normalization and privacy in their living environment. Such privacy and normalization is achieved to a greater degree in a “family home” setting, versus a group home environment. Only in rare circumstances will a waiver be granted to foster family homes, small family homes or any facility serving the developmentally disabled. For these facility and client types, the exception process should be used.

In all cases, the bedroom must be large enough to afford each child with adequate space, so that required (by regulation) bedroom furnishings can be placed in the room without crowding.

When an exception or waiver is requested, the following guidelines should be followed:

A. Exception

When an applicant/licensee requests an exception to allow specifically identified children to share a bedroom, the individual’s plan must state the advantage(s) of the arrangement for each child being added to the living unit, (e.g., keeping the children of one family together). The plan must also include, at minimum, documentation that no adverse consequences to the other children already in the living unit are foreseen as a result of the placement.

Supporting documentation from the placement agencies or authorized representatives of the individual clients must concur with the request and include:

1. Identification of the client to whom it applies; and the signature, title, date, agency and address of the person(s) submitting documentation for each child.
2. Identification of any special needs or characteristics of the client which support the exception request.

87087 BUILDING AND GROUNDS (Continued)

87087

(a)(1) POLICY (Continued)

3. Documentation regarding the lack of anticipated adverse consequences to the client.

- B. Waiver

Waivers are permissible. Waivers granted to this regulation shall be reviewed at time of renewal; however, the waiver shall remain in effect as long as the factors upon which the original waiver was granted remain unchanged and no increase of incidents attributed to more than two-to-a-room are reported.

The decision to place a child in a particular facility should be based on a determination that a particular facility can meet the child's needs. The licensee is responsible for ensuring that any involved placement agency is advised of the living arrangements and the existence of a facility-wide waiver. The placement worker is responsible for determining the type of environment and program a particular child requires.

To be considered for a waiver of the two-to-a-room standard, the placement must be short term. That is, the length of stay at the facility is 18 months or less and is not meant as a permanent placement. Such short-term placements include, but are not limited to, Emergency Shelters, Assessment Programs, Limited Term Treatment Programs and Emancipation Programs. (**NOTE:** As Emergency Shelters are very short term, normally no more than 30 days, such facilities do not have to document a treatment advantage to qualify for a waiver of the two-to-a-room requirement.)

There must be justification that such a room arrangement is consistent with the treatment program philosophy offered by the facility including a specific explanation of the program of treatment.

Treatment advantages may include:

- a. Facilities that use group interaction as the primary method of treatment. That is, daily group counseling and a philosophy of group participation and interaction in decision and/or consequential actions of the group members.
 - b. Facilities in which the group living arrangement is offered to children who have been abused, thus providing a feeling of security (more common in facilities serving younger children).
 - c. Facilities where more safety is needed in staff overseeing and preventing the acting out behavior of children in care (runaway, firesetters, sexually acting out, etc.).

87087 BUILDING AND GROUNDS (Continued)**87087****(a)(1) POLICY (Continued)**

In addition, particular consideration should be given to the following for any facility requesting such a waiver:

1. The sleeping area must be large enough to afford each child with area for storage of personal articles and clothing adjacent to their individual beds. The room must also allow for easy access throughout the room and between beds and personal storage areas.
2. The specific client group in care and their need for privacy. For example, infants' need for privacy is not as great as other client groups. All infants, however, must be given the opportunity to nap/sleep without distraction or disturbance from other activities. This is best achieved by grouping children of similar ages and developmental stages together for purposes of sleeping and activities. Additionally, placement of the cribs within the sleeping area must provide sufficient space between cribs to prevent crowding.
3. Availability of other areas in the facility to accommodate any need for privacy for personal hygiene and study.

NOTE: Regulations effective August 2, 1975, implemented the two-to-a-room standard. At that time, some facilities were allowed to continue serving more than two-to-a-room. These facilities will maintain such exemption status. Documentation should have been placed in the file at that time stating that the facility is exempt. In those cases where no such documentation exists, District Office staff should ensure that a document is filed stating that the facility is exempt from the waiver/exception criteria and the reason for the exemption.

(a)(1) PROCEDURE

The licensing agency shall review individual requests for waivers and/or exceptions upon receipt of justification including at least:

1. A floor plan or sketch of the room area, including room dimensions and specification of the furniture in the room.
2. Names of residents to be housed and statements from the placement workers or authorized representatives that the background and behavior characteristics of their child have been reviewed and supports the commingling of their client with the others in the bedroom. (Required for Exceptions only.)
3. The duration of the waiver/exception shall be for the term of the license or for a shorter period at the request of the applicant/licensee or as deemed necessary by the licensing agency to ensure adequate and safe provision of service.

87087 BUILDING AND GROUNDS (Continued)

87087

(a)(1) PROCEDURE (Continued)

4. Incident reports as required by Section 87061 shall be reviewed initially and on an ongoing basis.
5. Any room to be used to house more than two persons must have an appropriate fire clearance to ensure that there is sufficient space and exits to the outside of the facility to accommodate the children. For new facilities, this can be done at the time of initial licensure. For existing facilities a new fire clearance must be requested. (Not required for facilities licensed as foster family homes.)
6. Documentation from the placement worker must be in the child's record at the facility in those cases where the child will be in a living unit of more than two. The documentation must contain acknowledgment by the placement worker of the living arrangement and a statement that such an arrangement is appropriate to meet the needs of the child, and that this is acknowledged as a short-term placement, and that it is not expected that the placement will exceed 18 months.

(b)(1) POLICY

The presence of an environmental health and safety hazard in a community care facility is a violation of this section.

Suspected environmental hazards (e.g., asbestos) to clients in, or employees of the community care facilities should be inspected by the agency having jurisdiction, i.e., the county environmental health and sanitation agency. The results of their inspection could be the basis for appropriate licensing decisions. This policy is also true for other referrals to health/sanitation agencies, e.g., suspected water contamination, questionable waste disposal system. (Refer to 87087(b).)

County health department staff are to be utilized selectively by licensing agencies to establish the compliance of an individual facility with a specific licensing requirement. For example, county health department staff may be utilized to inspect the source of the private water supply of a community care facility and to provide a bacteriological analysis of a sample of the water. Likewise, a county health department evaluation of a facility disposition of solid waste may be required to provide information relating to a potential threat to the health and safety of clients from the facilities' waste disposal practice. However, inspections of a facility by county health departments to ascertain compliance with the California Restaurant Act or any statute other than the community care facilities Act are inappropriate since these statutes do not apply to the community care facilities.

County health departments may be utilized as a consultant or as a collateral resource to the licensing agency only when the evaluator or worker cannot establish a facility's compliance with the Community Care Facilities Act and related regulations, such as sanitation conditions which could adversely affect clients' health and safety. On this basis the licensing agency makes the evaluation of the county health department input in relation to licensing standards. This precludes the application of other standards to facilities by the county health department.

87087 BUILDING AND GROUNDS (Continued)**87087**

(b)(1)

PROCEDURE

1. If a hazard is suspected, request an inspection from the agency having jurisdiction. If possible, conduct a joint inspection.
2. If the results of the inspection verify the presence of a hazard and because of this the health and safety of clients/employees is jeopardized, cite as a deficiency of this section and establish a Plan of Correction and due date.

(d)

POLICY

Pool inaccessibility does not relieve the licensee from his/her obligation to provide supervision. Both supervision of children and pool inaccessibility are required.

Pool covers embossed or labeled "F 1346-91" by the American Society for Testing Materials will support the weight of an adult. Pool Domes are tent-like structures that fit over the pool for heating purposes. Domes are not designed to keep out children and are not acceptable substitutes for covers.

Fences must be in good repair and completely surround the pool. Division 1, Appendix Chapter 4 of the 1994 Uniform Building Code provides in pertinent part:

1. Bottom

The bottom of the fence shall be no more than two inches from the ground four inches if the fence is on the hard surface such as a concrete deck or mounted on top of an above ground pool structure).

2. Sides**Separation Fence**

No door or window of the home shall provide direct access to the pool. If a wall of the dwelling contains doors or windows which provide direct access to the pool, a separation fence shall be provided.

Indentations and Protrusions

On the side facing away from the pool, protrusions, and indentations are prohibited if they render the barrier easily climbable by children under the age of six. In particular, horizontal bars or beams on the side away from the pool shall be spaced at least 45 inches apart.

87087 BUILDING AND GROUNDS (Continued)**87087****(d) POLICY (Continued)****Openings**

No opening shall permit the passage of a 1 ¾-inch (44mm) diameter sphere [a golf ball, which has a diameter of 42.67 mm, provides a good approximation]. However, for picket fences (fencing made up of vertical and horizontal members), if the tops of the horizontal beams are at least 45 inches apart, the pickets may be up to 4 inches apart.

Thickness

Wire used in chain link fences must be thick enough that it cannot easily be broken, removed, or stretched by children. Chicken wire, for example, is unacceptable.

Mesh fences that meet regulatory standards for pool fencing may be used provided that the licensee agrees on the LIC 809 that irrespective of whether or not children are present, the fence will remain permanently in place for the duration of the license.

PROCEDURE

A waiver to the requirements for pool covers and fences may be granted as follows:

1. The pool is surrounded by a fence and is a public swimming pool regulated by the State Department of Health (examples include pools situated in apartment houses, mobile home parks, auto and trailer parks, condominiums, townhouses, public or private schools, hotels, motels, and homeowner's associations) and the waiver request is supported by a copy of a current certificate of compliance with public pool regulations (24 CCR Part 2, State Chapter 90) issued by the local health authority. This documentation must be updated for continued approval at the next evaluation visit.
2. Apartment complexes in which the building encloses the pool area and is itself the pool barrier pose special problems. In this case, the waiver shall require either of the following for each door of the apartment which gives direct access to the pool.
 - a. Installation of an alarm on the door of the licensee's apartment. The alarm shall meet the requirements of the 1994 edition of the Uniform Building Code Appendix Chapter 4, Division 1, Section 421.1(5)(2). [Section 421.1(5)(2) provides that the alarm must be capable of being heard throughout the house during normal household activities. The alarm must also sound continuously for at least ten seconds immediately after the door and its screen, if present, is opened. A switch or touch pad must be installed at least 4 ½ feet from the floor which permits the alarm to be deactivated for a simple opening of no more than 15 seconds. The alarm must automatically reset under all conditions.] Or,

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- b. Installation of self-closing and self-latching devices with the release mechanism located a minimum of 54 inches above the floor.

Where windows of the apartment give direct access to the pool, the waiver shall also require that the window be secured so that it cannot be opened more than four inches. For example, a clamping device may be fitted into the window track. The device shall be of a kind that cannot be removed by children such as clamps fixed in place by screws for aluminum windows or slats nailed into the tracks of wood framed windows.

3. The degree of protection afforded is substantially the same as that afforded by the regulations. In processing the waiver, the local building department may be used as a consultant.

The following examples of waivers are not intended to be all inclusive:

- a. When doors or windows of the facility provide direct access to the pool and the proximity of the pool to the building does not permit the construction of a separation fence, a waiver may be granted as described in 2., above.
- b. A waiver may be granted to allow reduction in the size of fence openings using wire mesh or Plexiglas meeting the above thickness standards and securely fastened to the fence.
- c. A waiver may be granted to allow the use of slats fastened at the top or the bottom of the chain link fence to reduce the size of the openings.
- d. A waiver may be granted to permit gates that are not equipped with self-latching or self-closing devices or which do not open away from the pool. These waivers shall be granted only if the licensee agrees to the following conditions: 1) There is at least one access gate to the pool that meets the regulatory requirements. 2) The gate is used as the primary access to the pool. 3) The remaining gates shall be kept locked at all times.

Section 87087(d) requires all foster family homes, irrespective of the age or disabilities of children in care, to provide a pool cover or, in lieu of covering, a fence that surrounds the pool and separates the pool from the house. In this the Department adopts the standard specified in Health and Safety Code Section 115922(a) which applies to all residential pools constructed on or after a specified date. Under Section 115922(a), pools must be made inaccessible to children irrespective of whether any children under the age of six or disabled children reside in the home. If a fence is used to enclose the pool, the fence must isolate the pool from access to the house.

87087.2 OUTDOOR ACTIVITY SPACE**87087.2**

Fencing used to make an activity space inaccessible from hazard may obscure the hazard from view.

87088 FIXTURES, FURNITURE, EQUIPMENT AND SUPPLIES**87088**

(a)(2)

PROCEDURE

Refer to Sections 87076 and 87087.

(b)(2)

POLICY

If a needs and services plan (preadmission appraisal) indicates that a client (child/adult) is incontinent and the facility accepts that client, the facility is responsible for the following as appropriate:

1. Providing disposable diapers.
2. Providing clean cloth diapers.
3. Providing rubber sheeting.

Should the licensee determine that the facility can no longer be responsible for providing an incontinent child with the above supplies, the licensee must inform the child's authorized representative that the child's needs cannot be met in the facility.

If a child becomes incontinent after admission (a condition not previously identified in the needs and services plan/preadmission appraisal) and the facility cannot or does not want to provide the necessary services, the facility must update the needs and services plan accordingly and then inform the child's authorized representative, in writing, to find a facility which can meet the child's needs.

When the facility accepts infants or children who have not been toilet trained, supplies must be provided as appropriate, i.e., disposable diapers, clean cloth diapers and rubber sheeting; or the child's authorized representative must be informed that the infant's or child's needs cannot be met.

Medi Cal will cover the cost of supplies associated with the care of clients with chronic incontinence related to a medical problem. The age of the client must be five years or older. Prior authorization is required before Medi Cal will pay for these supplies.

PROCEDURE

Refer to Sections 87068.2 and 87068.3(b).

87088

POLICY

This also applies to wood or coal burning stoves used for heating purposes.

PROCEDURE

Refer to Sections 87076 and 87087.